

Harry L. Bierley,	:	United States District Court
Plaintiff	:	Western District of Pennsylvania
V	:	
Joanne B. Barnhart,	:	Civil Action No. 05-07E
Commissioner of Social Security:		
Defendant	:	

Notice of Appeal

Plaintiff does hereby give notice, that, he is appealing to the United States Court of appeals for the Third Circuit, the order(s) by Judge Sean McLaughlin dated November 30, 2005.

This is to appeal the granting of Defendant's Partial Motion to Dismiss and Motion for Summary Judgment along with the Denial of my Motion for Summary Judgment for gross abuse of discretion by the Honorable Sean McLaughlin who is allowing the defendant to conceal pertinent, relevant and extremely important information in the Emergency Room Medical Records on James Hibbler circa aprox. 5:30 P.M. on December 5, 1989 per CP 38 of 90, Commonwealth V Bierley, Erie Co., PA, and, this is to appeal the wrongful obstruction of justice by the Defendant resulting from that concealment of those medical records.

c.o. L. Kowalski  
3123 German Street      December 20, 2005  
Erie, PA 16504-1073

Respectfully submitted,  
Harry L. Bierley, pro se/in pro per

*Harry L. Bierley*

A copy of theis pleading was served upon Ass't U.S. Att. Paul Skirtich by personally taking it to the U.S. Att. Office in Erie, PA.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HARRY L. BIERLEY, }  
Plaintiff, } Civil Action No. 05-07 Erie  
v. }  
JOANNE B. BARNHART, }  
Commissioner of Social Security, }  
Defendant. )

**MEMORANDUM ORDER**

Plaintiff's social security complaint was received by the Clerk of Court on January 6, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 28], filed on November 14, 2005, recommended that Defendant's Partial Motion to Dismiss [Doc. No. 7] be granted. The Magistrate Judge's Report and Recommendation [Doc. No. 29], filed on November 14, 2005, recommended that Plaintiff's Motion for Summary Judgment [Doc. No. 13] be denied, and that Defendant's Motion for Summary Judgment [Doc. No. 17] be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendant. Plaintiff filed objections [Doc. No. 30] on November 25, 2005. After de novo review of the documents in the case, together with the Reports and Recommendations, and objections thereto, the following order is entered:

AND NOW, this 30<sup>th</sup> day of November, 2005;

IT IS HEREBY ORDERED that Defendant's Partial Motion to Dismiss [Doc. No. 7] is GRANTED; Plaintiff's Motion for Summary Judgment [Doc. No. 13] is DENIED, and Defendant's Motion for Summary Judgment [Doc. No. 17] is GRANTED.

The Reports and Recommendations [Doc. No. 28] and [Doc. No. 29] of Magistrate Judge Baxter, filed on November 14, 2005, are adopted as the opinions of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge

Social Security Administration  
Case 1:05-cv-00007-SJM-SPB Document 34 Filed 12/20/2005  
Retirement, Survivors and Disability Insurance

Important Information

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Mid-Atlantic Program Service Center  
300 Spring Garden Street  
Philadelphia, Pennsylvania 19123-2992  
Date: December 5, 2005  
Claim Number: 194-34-8695HA

1128 ROA,PC2,U,PH, 003 000000157 01 SP 0.370  
HARRY L BIERLEY  
3123 GERMAN ST  
ERIE PA 16504-1073

Below is the new repayment withholding schedule we will use to collect the Social Security benefits paid in error:

Month(s)	Amount you will receive	Amount withheld	Balance you owe
12/05	\$0.00	\$1,183.50	\$6,929.83
06/06	\$171.17	\$1,012.33	\$0.00
07/06	\$1,183.50	\$0.00	\$0.00

If you owe Medicare premiums or health plan premiums, they may be deducted from the amount shown under the heading "Amount you will receive."

**What We Will Pay And When**

You will receive \$171.17 for June 2006 in July 2006.

After that you will receive your full regular monthly payment.

**If You Have Any Questions**

We invite you to visit our website at [www.socialsecurity.gov](http://www.socialsecurity.gov) on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 814-452-6696. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY  
823 PEACH ST  
ERIE PA 16501

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.

*Steven G. DeMarco*  
Steven G. DeMarco  
Assistant Regional Commissioner,  
Processing Center Operations